

SECOND REGULAR SESSION

# SENATE BILL NO. 750

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALSH.

Read 1st time January 21, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4757S.011

## AN ACT

To amend chapter 285, RSMo, by adding thereto one new section relating to employee password protection.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 285, RSMo, is amended by adding thereto one new  
2 section, to be known as section 285.045, to read as follows:

**285.045. 1. This section shall be known and may be cited as "The  
2 Password Privacy Protection Act".**

3 **2. As used in this section, the following terms shall mean:**

4 **(1) "Applicant", any person applying for employment;**

5 **(2) "Electronic communications device", any device that uses  
6 electronic signals to create, transmit, and receive information which  
7 shall include, but not be limited to, computers, telephones, personal  
8 digital assistants, and other similar devices;**

9 **(3) "Employee", any person performing work or service of any  
10 kind or character for hire within the state of Missouri, including  
11 independent contractors;**

12 **(4) "Employer", any person or entity employing any person for  
13 hire within the state of Missouri, including a public employer;**

14 **(5) "Employment", the act of employing or state of being  
15 employed, engaged, or hired to perform work or services of any kind or  
16 character within the state of Missouri;**

17 **(6) "Personal online account", an online account that is used by  
18 an employee or applicant exclusively for personal communications  
19 unrelated to any business purposes of the employer. Such account shall  
20 not include any account created, maintained, used, or accessed by an  
21 employee or applicant for business related communications or for a**

22 **business purpose of the employer;**

23 **(7) "Personal online service", an online service that is used by an**  
24 **employee or applicant exclusively for personal communication or use**  
25 **unrelated to any business purposes of the employer. Such service shall**  
26 **not include any service maintained, used, or accessed by an employee**  
27 **or applicant for business related communications or uses or for a**  
28 **business purpose of the employer;**

29 **(8) "Political subdivision", any agency of the state, county, city,**  
30 **town, township, village, special district or subdistrict, or any unit of**  
31 **the state authorized to levy taxes;**

32 **(9) "Public employer", every department, agency, or**  
33 **instrumentality of the state or political subdivision of the state;**

34 **(10) "Work", any job, task, labor, services, or any other activity**  
35 **for which compensation is provided, expected, or due.**

36 **3. Subject to the exceptions provided in subsection 4 of this**  
37 **section, an employer shall not request or require an employee or**  
38 **applicant to disclose any user name, password, or other authentication**  
39 **means for accessing any personal online account or personal online**  
40 **service.**

41 **4. An employer may request or require an employee to disclose**  
42 **any user name, password, or other authentication means for accessing:**

43 **(1) Any electronic communications device supplied by or paid for**  
44 **in whole or in part by the employer;**

45 **(2) Any accounts or services provided by the employer;**

46 **(3) Any accounts or services the employee uses for business**  
47 **purposes; or**

48 **(4) Any accounts or services used as a result of the employee's**  
49 **employment relationship with the employer.**

50 **5. An employer shall not:**

51 **(1) Discharge, discipline, or otherwise penalize or threaten to**  
52 **discharge, discipline, or otherwise penalize an employee solely for an**  
53 **employee's refusal to disclose any information specified in subsection**  
54 **3 of this section;**

55 **(2) Fail or refuse to hire any applicant as a result of the**  
56 **applicant's refusal to disclose any information specified in subsection**  
57 **3 of this section; or**

58 **(3) Be held liable for failure to request or require that an**

59 applicant or employee disclose any information specified in subsection  
60 3 of this section.

61         **6. An employee shall not transfer an employer's proprietary or**  
62 **confidential information or financial data to an employee's personal**  
63 **online account or personal online service without the employer's**  
64 **authorization.**

65         **7. This section shall not be construed to prevent an employer**  
66 **from engaging in any of the following activities:**

67           **(1) Conducting an investigation for the purposes of ensuring**  
68 **compliance with applicable laws or regulations against work-related**  
69 **employee misconduct based on the receipt of specific information about**  
70 **activity on a personal online account or personal online service by an**  
71 **employee or other source;**

72           **(2) Conducting an investigation of an employee's actions based**  
73 **on the receipt of specific information about the unauthorized transfer**  
74 **of an employer's proprietary information, confidential information or**  
75 **financial data to a personal online account or personal online service**  
76 **by an employee or other source;**

77           **(3) Conducting an investigation as specified in subdivision (1) or**  
78 **(2) of this subsection that requires the employee's cooperation to share**  
79 **the content that has been reported in order to make a factual**  
80 **determination;**

81           **(4) Disciplining or discharging an employee for transferring the**  
82 **employer's proprietary or confidential information or financial data to**  
83 **an employee's personal internet account without the employer's**  
84 **authorization;**

85           **(5) Restricting or prohibiting an employee's access to certain**  
86 **websites while using an electronic communications device that is paid**  
87 **for in whole or in part by the employer or while using an employer's**  
88 **network or resources, in compliance with state and federal law; or**

89           **(6) Monitoring, reviewing, accessing, or blocking electronic data**  
90 **stored on an electronic communications device that is paid for in whole**  
91 **or in part by the employer, or such data that is traveling through or**  
92 **stored on an employer's network, in compliance with state and federal**  
93 **law.**

94         **8. This act shall not prohibit or restrict any employer from**  
95 **viewing, accessing, or utilizing information about any employee or**

96 applicant that can be obtained without the information specified in  
97 subsection 3 of this section or that is available to the public.

98           9. This act shall not be construed to prevent an employer from  
99 complying with state or federal laws or regulations or the rules of self-  
100 regulatory organizations as that term is defined in 15 U.S.C. 78c(a)(26).

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